

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-45395

RAID E. JAMIL,

Chapter 7

Debtor.

Judge Thomas J. Tucker

CHARLES J. TAUNT, TRUSTEE,

Plaintiff,

v.

Adv. Pro. No. 09-6571

MIKE JAMIL,

Defendant.

ORDER DISMISSING ADVERSARY PROCEEDING

On October 13, 2009, Plaintiff filed a complaint, initiating this adversary proceeding (Docket # 1). On December 2, 2009, Defendant filed an answer to the complaint (Docket # 8). On March 30, 2010, Plaintiff filed a notice of voluntary dismissal of this adversary proceeding, purportedly without prejudice (Docket # 21). However, the notice is ineffective to dismiss the case.

Fed.R.Civ.P. 41(a), which applies in this adversary proceeding under Fed.R.Bankr.P. 7041, does not permit a plaintiff to voluntarily dismiss a case simply by filing a notice of dismissal, where the defendant has filed an answer to the complaint, as in this case. Rather, under Fed.R.Civ.P. 41(a), either a stipulation of dismissal or an order of dismissal is required. Under the circumstances, however, the Court will enter this order dismissing the adversary proceeding.

IT IS ORDERED that this adversary proceeding is DISMISSED, without prejudice, and without costs. If Defendant objects to this Order, he may file a motion for reconsideration of the order, no later than 14 days after entry of the Order, under L.B.R. 9024-1(a) (E.D. Mich.).

Signed on April 05, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge